

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KENNETH THOMAS, JR.,

Plaintiff,

v.

CORRECTIONS OFFICER HOPF,

Defendant.

Case No. C19-1766-JCC-MLP

ORDER GRANTING IN PART AND  
DENYING IN PART PLAINTIFF'S  
MOTION FOR EXTENSION OF TIME

**I. INTRODUCTION**

This is a 42 U.S.C. § 1983 prisoner civil rights action. Currently before the Court is Plaintiff's second motion for extension of time to respond to Defendant's motion for summary judgment (dkt. # 33), which Defendant opposes (dkt. # 31). As discussed below, Plaintiff's motion is GRANTED in part and DENIED in part.

**II. DISCUSSION**

On April 16, 2019, Defendant filed a motion for summary judgment alleging Plaintiff failed to exhaust his administrative remedies (dkt. # 19) and a motion to stay discovery pending resolution of the motion for summary judgment (dkt. # 23). The motion to stay discovery was noted for May 1, 2020, and the motion for summary judgment was noted for May 8, 2020.

1 On April 27, 2020, Plaintiff signed a motion seeking a 60-day extension of time to  
2 respond to both of Defendant's motions. (Dkt. # 28.) Plaintiff requested additional time because  
3 he has had limited access to the law library due to restrictions imposed by the COVID-19  
4 pandemic. (*See id.*) On May 8, 2020, prior to receiving Plaintiff's motion for extension of time,  
5 the Court granted Defendant's motion to stay discovery. (Dkt. # 27.) On May 14, 2020, the  
6 Clerk's Office received and filed Plaintiff's motion.

7 On June 6, 2020, the Court denied Plaintiff's motion for extension of time to respond to  
8 Defendant's motion to stay discovery, finding that Plaintiff's motion was moot given that the  
9 Court had already stayed discovery. (Dkt. # 31.) The Court informed Plaintiff that to the extent  
10 he believes discovery is needed to respond to the pending motion for summary judgment, he may  
11 file a motion pursuant to Federal Rule of Civil Procedure 56(d). (*Id.*) The Court, however, re-  
12 noted Defendant's motion for summary judgment for July 3, 2020, which gave Plaintiff until  
13 June 29, 2020, to file a response. (*See id.*)

14 On July 2, 2020, Plaintiff filed the motion for extension of time that is currently before  
15 the Court. (Dkt. # 33.) He again asks for additional time to respond to Defendant's motion to  
16 stay, and this request will be denied for the reasons stated in the Court's June 6, 2020 order.  
17 Plaintiff also asks for an extension of time until September 2021 when he is released from prison  
18 to respond to Defendant's motion for summary judgment. (*Id.* at 1.) He states that he has no  
19 access to a law library because he is currently housed in the Washington State Penitentiary's  
20 ("WSP") minimum security camp and that movement from the camp is restricted due to the  
21 COVID-19 pandemic. (*Id.* at 1-2.) He also states that he would like to seek out an attorney to  
22 represent him once he is released. (*Id.*)  
23

1 In response, Defendant asks the Court to deny Plaintiff's request for additional time or, in  
 2 the alternative, grant him no more than a 30-day extension. (Dkt. # 34.) Defendant presents  
 3 evidence from Lisa Morrow, the Library/Archival Professional at the WSP, that Plaintiff can  
 4 request a temporary transfer to the medium security unit where he would be able to access the  
 5 law library. (Dkt. # 35 at ¶ 2.) She states that such a transfer is easy to implement, and other  
 6 minimum-security inmates are currently housed in the medium security unit so they can access  
 7 the law library. (*Id.*)

8 Having considered the parties' submissions and the governing law, the Court finds good  
 9 cause to grant Plaintiff an extension of time until September 14, 2020, to respond to Defendant's  
 10 motion for summary judgment. This should be ample time for him to either seek the assistance of  
 11 counsel or request and obtain a transfer to the minimum-security unit to access the law library  
 12 and prepare any response to Defendant's motion for summary judgment.

### 13 III. CONCLUSION

14 Plaintiff's motion for extension of time (dkt. # 33) is GRANTED in part and DENIED in  
 15 part. Plaintiff may file a response to Defendant's motion for summary judgment on or before  
 16 **September 14, 2020**, and Defendant may file a reply by **September 18, 2020**. Plaintiff's motion  
 17 is denied in all other respects. The Clerk is directed to RE-NOTE Defendant's motion for  
 18 summary judgment (dkt. # 19) for September 18, 2020, and to send copies of this order to the  
 19 parties and to the Honorable John C. Coughenour.

20 Dated this 3rd day of August, 2020.

21  
 22 

23 MICHELLE L. PETERSON  
 United States Magistrate Judge